GOVERNMENT OF MADRAS.

Secte. II-28—55.000—27-10-52

Revenue (1953) Department.

Endorsement
D.O.
Memorandum
Lodged

No. 12516 F 1/53-4

Dated 14-7-53 1953

Passed
Q
Supd
M.

FURTHER PAPERS.

Department.	Number	Series.	Date.

FOR MYSORE STATE

X N.Dis No. 405/53

Madras Governor's Camp (On Tour)

8th February 1953.

Transferred to the Secretary to Government, Revenue Department, Fort St. George, Madras-9, for disposal.

The communication has been acknowledged.

(By order of the Governor)

for Secretary to the Governor.

BEFORE HIS EXCELLENCY THE GOVERNOR OF MADRAS

Mrs. Cocess Fernandes, wife of
Mr. Gustin Rodrigues, residing
in Kukkedi Village, Karkal Taluk
South Kanara District. ... PETITIONER

MAY IT PLEASE YOUR EXCELLENCY,

I, Mrs. Cocess Fernandes Bai, the Petitioner herein, pray that I may be permitted to bring the following facts by way of Appeal to Your Excellency's kind notice for Your Excellency's favourable consideration and for the necessary reliefs:-

1. The Petitioner is a very poor woman of Kukkedi Village. She was a Chalgeni tenant under one Nemanna Ajiri, the predecessor-in-title of one Darmanna Pande, a rich land-lord and pattadar of Kukkedi Village. This Petitioner prays that she may be permitted for the purpose of this Appeal to refer to the aforesaid Darmanna Pande, as the Respondent.

PP11-12-47 E

2. In D.Dis.No.2313-43 dated 29-7-1943, on the file of the Tahsildar of Karkal the Petitioner was granted 1-75 acres of land in S.No.50/2 of Kukkedi Village under the Grow More Food Scheme. This grant was made with the written consent of the Petitioner's then landlord, Nemanna Ajiri, who assured the Petitioner that he would consent t

the assignment of the plot to her and that she could improve upon it. Being an ignorant woman and trusting her land-lord, the Petitioner improved the land at a cost of nearly Rs.1,000-0-0 got by the sale of all her jewels and by borrowing money from the relations. The Petitioner has enclosed the plot with walls after levelling the ground; she has constructed fields, sunk two wells. planted fruit trees and has built a small house. The said plot is now a flourishing garden and will fetch a net rental of not less than Rs.60-0-0 per annum. The Petitioner's then landlord, Nemanna Ajiri did not raise the least objection while she was effecting all these improvements.

3. The Petitioner's then land-lord, the aforesaid Nemanna Ajiri, was a conscientious and God fearing man and was held in high esteem. Nemanna Ajiri, however, died in 1947 and thereafter the Respondent has succeeded him.

4. The Respondent is a greedy man and is out to reap where he has not sown and to appropriate by hook or by crook, the fruits of someone else's labour. From the very outset, after he took over, the Respondent has deliberately entertained enemity towards the Petitioner and this solely with the idea of depriving the Petitioner of the aforesaid plot of land.

5. The Respondent filed a Civil Suit against the Petitioner and got her evicted from the Chalgeni plot to which the present plot of land is Darkhast. The next step, he foisted was a prohibition case against her which owing to the Grace of God, was thrown out as false. He has used his power and pelf to deprive the Petitioner of the fruits of ther labour in the aforementioned Darkhast and to harass her in numerous ways.

6. In this connection the Petitioner begs to submit that she has, ever since 1943, been paying the assessment in respect of the Darkhast in question.

7. In view of the improvements effected by the Petitioner in the aforesaid plot the Petitinner applied for the assignment of the plot in D.R.No.67/58 which was strenously opposed by the Respondent. In his statement dated 8-2-1948 before the Shanbogue, the Respondent admitted that the Petitioner had effected improvements in the plot but that she had no right to them because it was Kumki to his Kadim land S.No.22/2 . The Tahsildar ignored the valuable improvements effected by the Petitioner and assigned the plot to the Respondent. Thereafter the Petitioner preferred an Appeal against the order of the Tahsildar to the Revenue Divisional Officer, Coondapur. The Revenue Divisional Officer, Coondapur confirmed the order of the Tahsildar.

The Order of the Revenue Divisional Officer, Coondapur was inequitable and unjust in view of the fact that the Petitioner had admittedly effected the improvements on the plot and the relative status of the Petitioner and the Respondent.

8. As against the Order of the Revenue Divisional Officer, Coondapur, the petitioner preferred an Appeal to the Collector of South Kanara. In her Appeal to the Collector of South Kanara the Petitioner stated inter alia that the land had been assigned to her that if the original landlord Nemanna Ajiri, wanted any Kumki right to this plot he would certainly have asserted his claim at the time of the original grant under the Grow More Food Scheme in 1943, or subsequently before the time of his death, that the successor in interest of Nemanna Ajiri was estopped from asserting his right to the plot, that Kumki privileges are not absolute but that they are at the discretion of the Government, that the observation of the Revenue Divisional Officer, Coondapur that the consent of Nemanna Ajiri covered only the grant of the land on temporary lease is not correct and that unless the Petitioner had been made to believe that the land would be ners andshe would never have expended all her resources and run into debts

in order to improve the land in question.

9. The Collector of South Kanara was pleased to allow the Appeal of the Petitioner in D.Dis.16315/50 dated 31-10-1950 after setting aside the order of the Revenue Divisional Officer, Coondapur. The Collector's Order has exhaustively dealt with the matter and the reasoning adopted is equitable, just and based on the equities of the case.

10. As against the Order of the Collector, the Respondent filed an Appeal before the Board of Revenue, Madras. The Board called for her statement and on 1-9-1952 this Petitioner submitted her statement to the Board.' Being too poor to engage the services of a Counsel, to represent her case, before the Board of Revenue, Madras, the Petitioner remained unrepresented the Respondent, on the other hand, had a Counsel to appear for him.

11. The Board of Revenue set aside the Order or the Collector of South Kanara in B.P.Rt.3012. The Petitioner received an order dated 1-5-1952 asking her to refer to the Collector of South Kanara. Thereafter the Petitioner received an order from the Collector of South Kanara D.Dis.No.2479/51 dated 12-5-1952 asking her to refer to the Tahsildar of Karkal for orders. She then received a notice from the Tahsildar, Karkal, that

the land had been assigned by the Board to Darmanna Pande.

12. Not knowing on what grounds the Board of Revenue had set aside the order of the Collector of South Kanara and allowed the Appeal preferred by Darmanna Pande, the Petitioner applied to the Board for a copy of the Board's Orders. She received a reply from the Board asking her to apply to the Collector of South Kanara for a copy.

13. The Petitioner filed a copy application before the Collector of South Kanara for a copy of theBoard's orders as directed. She received a reply from the Collector's Office to apply to the Board for a copy.

14. A further copy application was preferred before the Board of Revenue for a copy of the Board's Orders. Once again she received an order from the Board to apply to the Collector of South Kanara.

15. It is thus highly inequitable and unjust that the Petitioner should be made to dance from pillar to post just to get a copy of the Board's orders in B.P.Rt.3012, without being given a copy of the same.

16. The Petitioner was directed by the Board to file an Appeal if she so chose before the Government. But without a copy of the Board's Orders set aside the Order of the Collector of South Kanara, the Petitioner sat helpless.

17. The Petitioner fails to understand why the Board of Revenue, Madras, has not given her a copy of the Board's Order in B.P.Rt.3012.

PP 70-73 of (A)

18. The Petitioner feels that she has no other resort but to approach Your Excellency for ---- necessary reliefs and feels certain that justice will not be denied to her at Your Excellency's hands.

19. The Petitioner prays that Your Excellency may be pleased to call for the records pertaining to her case and pass orders in her favour restoring the land to her and confirming the orders of the Collector of South Kanara in D.Dis.No.16315/50 dated 31-10-1950.

PP 27-28 of (M)

20. In this connection this Petitioner humbly prays to draw your Excellency's attention to paragraph 5 of G.O.No.999 Revenue Department dated 28-4-1946 which directs that poor persons like the Petitioner should be permitted to continue in occupation of the land granted to them under the Grow More Food Scheme by the assignment of the said land to them. The said G.O.applies to the Petitioner with greater force as she owns no other property and she has improved the land at the expense of much labour and cost.

P 2 (B)

21. The Petitioner submits that she has been

in continuous possession of the land for the past nine years and both in justice and in equity she cannot be ejected from the land for the sake of a wealthy landlord.

22. The Petitioner also prays to draw Your Excellency's attention to the fact that the Respondent is a rich and wealthy land-lord owning vast tracts of land which are not attended to. This Petitioner has brought a piece of land which was assigned to her and which was barren when it came into her possession, under cultivation and has converted it into a flourishing garden. Just prior to the Monsoon of 1952, this Petitioner has further developed the land by constructing fresh rice fields. During these days of food scarcity, it will not be correct to interfere with the labour of the Respondent and prevent her from raising food crops. It is obvious that the Respondent wants to deprive the Petitioner of the fruits of her labour and snatch away the outcome of another pessons honest and hard labour.

23. In the circumstances set forth above, the Petitioner humbly begs to submit that there is absolutely no mistake of fact in the matter of the assignment in her favour and that there are no grounds justifying the setting aside by the Board of Revenue, Madras, of the Order of the Collector of South Kanara.

24. The Petitioner prays that Your Excellency

may be pleased after going through the records of her case to confirm the Order of the Collector of South Kanara in D.Dis.No.16315/50 for which act of justice and kindness the Petitioner will ever remain grateful to Your Excellency.

PP 27-28 cf (M)

KUKKEDI VILLAGE
2nd February 1953

PETITIONER

L.H.F. of Cobies Forwarding

Rev Dept

Endt No 12516 F/53 - 1 dt 17/2/53

Referred to the Bd of ... for remarks.

To,
The Bd of Rev (L.k)
with Copy of H.F 2-9 ante

O/C
Under secy to Govt
Rev Dept

E.R. issued on 17/3/53
17/3/53 Pl issue 17.2.53

Revenue Department.
Subject.

- - -

Assignment - Land - (South Kanara) - Karkal Taluk - Kukkedi village - S.No.50/2 - Appeal to Government - Report - Submitted -

- - -

Madras. Bd's Ref.B.No.2026/53-2. Dated:- 13-6-1953.

- - -

Sri W. R. S. Sattianathan, I.C.S., Commissioner of Land Revenue, Madras.
Sri C. S. Krishna Moorthy, I.A.S., Secretary, Board of Revenue, Madras.

- - -

Read:- i) Government Endt.No.12516-F/53-1, dated 17-2-1953.
ii) From the Collector of South Kanara, C.No.A1.6337/53-5, dated 10-5-1953.

- - -

REFERENCE:--

Submitted to the Government.

2. The petition to the Government does not contain any fresh grounds other than those urged before the Board and the Board has no further remarks to offer. B.P.Rt.No.3012, dated 1-5-1952, in which the case was disposed of by the Board is submitted along with the records of the Collector.

3. In regard to the contentions in paras 14 & 15 of the revision petition, the Board submits that the petitioner was furnished with a copy of para 5 of B.P.Rt.No.3012, dated 1-5-1952 in Board's Ref.P.No.5863/52-2, dated 14-11-1952.

for Secretary.

To The Secretary to the Government, Revenue Department, Madras, with the connected records by R.P.

rm.13/6.

12

Rev dept

plissue mp 14/7/53

Memo No 12-5.16 F/53-H dated 14-7-53

15/7

Assignment-land-South Kanara-Karkal taluk-Kukkedi village-S.No 50/2 Assignment to sri Dharmanna Pandi-Cancellation-request-negatived.

PP 1-10 cf — From Mrs Cicera Fernandes petition dated 2-2-53.

P11 cf — From the Bd of Rev Ref B-2026/53-2 dated 13-6-53

The govt see no grounds to interfere on behalf of the petitioner. The petition is rejected

mp 14/7/53.

RA 14/7/53

DW 14/7/53

P2 cf

To Mrs. Cicera Fernandes w/o sri Agustin Rodrigues Kukkedi village Karkal taluk South Kanara dt.

copy to the Bd of Rev (C.R.) (with ends as per list returned)

copy to the Collr of South Kanara.

WL No 18/7/53

List of records

1. Bds file P.No 5863/52 (S)
2. B.P Rt 3012 dt 1-5-52 (A)
3. R.D. of file D dis. 1863/50 (W)
4. D.R 67/58, and (V)
5. the Tahsildars D.No 2318/43 (M)
6. 163/15/50 (F)

13

(C.No.12516-F/53)

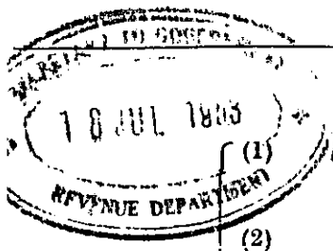
20,002—8-6-53.

ORDER PAPER.

Revenue **Department.**

Subject. Assignment - Land - (South Kanara) - Karkal taluk - Kukkedi village - S.No.50/2 - Assignment to Sri Dharmanna Pandi - Cancellation - Petition.

Recommendations of Circulating Officer. The petition may be rejected
Macfarlane
10.7.53
D.S. Rev



M (L.R) M.A. Mar 12.7.53

Orders of Ministers.

(1)
(2)
(3)
(4)
(5)
(6)
(7)
(8)
(9)
(10)

If orders passed in the Cabinet, Decision of Cabinet.

Endt. X.N. Dis. No. 3/ 551-53 Governor's Secretariat,

Raj Bhavan,

Dated : 4-OCT 1953 IX/53

Transferred to the Secretary to Government, Department, Madras for disposal. The communication has been acknowledged.

F 10/10

(By order of the Governor)

Private Secretary

SECRETARY TO THE GOVERNOR

5-OCT 1953
88645F

efore The HIS EXCELLENCY NOR of The Province of MADRAS.

Mrs. Cosses Fernandez Bai, wife of Sri. Gustin Rodrigues, residing in Kukkedi village, Karkal Taluk. South Kanara District. ... Petitioner.

MAY IT PLEASE YOUR EXCELLENCY,

I, Mrs. Cosses Fernandez Bai, the petitioner herein, pray that I may be permitted to bring the following facts by way of appeal to Your Excellency's kind notice for Your Excellency's favourable consideration and for the necessary reliefs.

I beg to submit that I may be permitted to bring to Your Excellency's kind notice the facts herebelow in continuation of my appeal memorandum dated 2-2-1953 and in view of Your Excellency's Order in Memorandum No.12516-F-53-4 dated 14-7-1953 stating that there are no grounds to interfere on behalf of the petitioner.

1. The petitioner is a very poor woman of Kukkedi village She was a chalgeni tenant under one Nemanna Ajiri, the predecessor-in-title of one Darmanna Pande, a rich landlord and pattadar of Kukkedi village. This petitioner prays that she may be permitted for the purpose of this appeal to refer to the aforesaid Darmanna Pande as the Respondent.

2. In D.Dis.No.2313/43 dated 29-7-1943, on the file of the Tahsildar of Karkal the petitioner was granted 1-75 acres of land in S.No.50/2 of Kukkedi village under the Grow More Food Scheme. This grant was made with the written consent of the petitioner's then landlord, Nemanna Ajiri, who [illegible]ed the petitioner that he would consent to the assignment of the plot to her and that she could improve upon it. Being an ignorant woman and trusting

her landlord, the petitioner improved the land at a cost of nearly Rs.1,000-0-0 got by the sale of all her jewels and by borrowing money from the relations. The petitioner has enclosed the plot with walls after levelling the ground; she has constructed fields, sunk two wells, planted fruit trees and has built a small house. The said plot is now a flourishing garden and will fetch a net rental of not less than Rs.60/- per annum. The petitioner's then landlord, Nemanna Ajiri did not raise the least objection while she was effecting all these improvements.

3. The petitioner's then landlord, the aforesaid Nemanna Ajiri, was a conscientious and God fearing man and was held in high esteem. Nemanna Ajiri, however, died in 1947 and thereafter the Respondent has succeeded him.

4. The Respondent is a greedy man and is out to reap where he has not sown and to appropriate by hook or by crook, the fruits of someone else's labour. From the very outset, after he took over, the Respondent has deliberately entertained enemity towards the petitioners and this solely with the idea of depriving the petitioner of the aforesaid plot of land.

5. The Respondent filed a ~~suit~~ civil suit against the petitioner and got her evicted from the chalgeni plot to which the present plot of land is Dharkast. The next step he foisted was a case against her which owing to the Grace of God, was thrown out as false. He has used his power and pelf to deprive the petitioner of the fruits of the labour in the aforementioned Dharkast and to harass her in numerous ways.

6 In this connection the petitioner begs to submit that she has, ever since 1943, been paying the assessment in respect of the Dharkast in question.

7. In view of the improvements effected by the petitioner in the aforesaid plot the petitioner applied for the assignment of the plot in D.R.No.67/58 which was strenously opposed by the respondent. In his statement dated 8-2-1948 before the Shanbhogue the Respondent admitted that the petitioner had effected improvements in the plot but that she had no right to them because it was kumki to his kadim land S.No.22/2. The Tahsildar ignored the valuable improvements effected by the petitioner and assigned the plot to the Respondent. Thereafter the petitioner preferred an appeal against the order of the Tahsildar and the Revenue Divisional Officer, Coondapoor. The Revenue Divisional Officer, confirmed the order of the Tahsildar. The order of the Revenue Divisional Officer, Coondapoor was inequitable and unjust in view of the fact that the petitioner had admittedly effected the improvements on the plot and the relative status of the petitioner and the respondent.

8. As against the order of the Revenue Divisional Officer, Coondapoor the petitioner preferred an appeal to the Collector of South Kanara. In her appeal to the Collector of South Kanara the petitioner stated inter alia that the land had been assigned to her that if the original landlord Nemanna Ajiri, wanted any kumki right to this plot he would certainly have asserted his claim at the time of the original grant under the Grow More Food Scheme in 1943, or subsequently before the time of his death, that the successor in interest of Nemanna Ajiri was estopped from asserting his right to the plot, that kumki privileg

are not absolute but that they are at the discretion of the Government that the observation of the Revenue Divisional Officer, Coondapoor that the consent of Nemanna Ajiri covered only the grant of the land on temporary lease is not correct and that unless the petitioner had been made to believe that the land would be hers and she would never have expended all her resources and run into debts in order to improve the land in question.

9. The Collector of South Kanara was pleased to allow the appeal to the petitioner in D.Dis.No.16315/50 dated 31-10-1950 after setting aside the order of the Revenue Divisional Officer, Coondapoor. The Collector's order has exhaustively dealt with the matter and the reasoning adopted is equitable, just and based on the equities of the case.

10. As against the order of the Collector, the respondent filed an appeal before the Board of Revenue, Madras. The Board called for her statement and on 1-9-1952 this petitioner submitted her statement to the Board. Being too poor to engage the services of a Counsel, to represent her case, before the Board of Revenue, Madras, the petitioner remained unrepresented the respondent, on the other hand, had a Counsel to appear for him.

11. The Board of Revenue set aside the order of the Collector of South Kanara in B.P.Rt.3612. The petitioner received an order dated 1-5-1952 asking her to refer to the Collector of South Kanara. Thereafter the petitioner received an order from the Collector of South Kanara,

D.Dis.No.2479/51 dated 12-5-1952 asking her to refer to the Tahsildar of Karkal for orders. She then received a notice from the Tahsildar, Karkal, the land had been assigned by the Board to Darmanna Pande.

12. Not knowing on what grounds the Board of Revenue had set aside the order of the Collector of South Kanara and allowed the appeal preferred by Darmanna Pande, the petitioner applied to the Board for a copy of the Board's orders. She received a reply from the Board asking her to apply to the Collector of South Kanara for a copy.

13. The petitioner filed a copy application before the Collector for a copy of the Board's orders as directed. She received a reply from the Collector's office to apply to the Board for a copy.

14. A further copy application was preferred before the Board of Revenue for a copy of the Board's orders. Once again she received an order from the Board to apply to the Collector of South Kanara.

15. It is thus highly inequitable and unjust that the petitioner should be made to dance from pillar to post just to get a copy of the Board's orders in B.P.Rt.3012, without being given a copy of the same.

16. The petitioner was directed by the Board to file an appeal if she so chose before the Government But without a copy of the Board's orders set aside the order of the Collector of South Kanara, the petitioner felt helpless.

17. The petitioner fails to understand why the Board of Revenue, Madras, has not given her a copy of the Board's order

in B.P.Rt.3012.

18. The petitioner feels that she has no other resort but to approach Your Excellency for the necessary reliefs and feels certain that justice will not be denied to her at Your Excellency's hands.

19. The petitioner prays that Your Excellency may be pleased to call for the records pertaining to her case and pass orders in her favour restoring the land to her and confirming the orders of the Collector of South Kanara, in D.Dis.16315/50 dated 31-10-1950.

20. In this connection this petitioner humbly prays to draw Your Excellency's attention to paragraph 5 of G.O.No.999 Revenue Department dated 28-4-1946 which directs that poor persons like the petitioner should be permitted to continue in occupation of the land granted to them under the Grow More Food Scheme by the assignment of the said land to them. The said G.O applies to the petitioner with greater force as she owns no other property and she has improved the land at the expense of much labour and cost.

21. The petitioner submits that she has been in continuous possession of the land for the past nine years and both in justice and in equity she cannot be ejected from the land for the sake of a wealthy landlord.

22. The petitioner also prays to draw Your Excellency's attention to the fact that the Respondent is a rich and wealthy landlord owning vast tracts of land which are not attended to. This petitioner has brought a piece of land which was assigned to her and which was barren when it came

into her possession, under cultivation and has converted it into a flourishing garden. Just prior to the Monsoon of 1952, this petitioner has further developed the land by constructing fresh rice fields. During these days of food scarcity, it will not be correct to interfere with the labour of the respondent and prevent her from raising food crops. It is obvious that the respondent wants to pr deprive the petitioner of the fruits of her labour and snatch away the outcome of another persons honest and hard labour.

23. This petitioner prays to file herewith the following certified copies of plans showing the actual state of affairs. It will be clearly seen from these that the petitioner's plot is clearly outside the dharkast plot of the Wargdar, Darmanna Pande. In Dharkast case No.71/1325 on the file of the Tashildar of Karkal Taluk and dated 27-11-1915, S.No.101/3 - 59 cents in extent had been granted on dharkast to Marudevi... Marudevi is no other than the immediate predecessor in title of Nemanna Ajiri who in his turn was the predecessor-in-title of Darmanna Pande. The petitioner's plot of land is outside the limits of this dharkast plot S.No.101/3. Though it is not warranted by the Boards Standing Orders it is strange that the Board itself has granted land on dharkast, on the ground that it is dharkast to other dharkast land. This is the position in the petitioner's case. Darmanna Pande can have no right whatsoever to her bit of land.

24. The petitioner is also herewith submitting a copy of the Revenue Inspector's Report in the matter of the assignment of her plot of land.

25. In the circumstances stated above, the petitioner humbly begs to submit that there are grounds for Government to interfere in her favour in the matter of the assignment

in her favour and upholding the order of the Collector of South Kanara.

The petitioner prays that Your Excellency may be pleased after going through the records of her case to review your order in Memorandum No.12516-F/53-4 dated 14-7-1953 and to confirm the order of the Collector of South Kanara in D.Dis.No.16315/50 dated 31-10-1950, for which act of justice and kindness the petitioner will ever remain grateful to Your Excellency.

Kukkedi Village,
26th September 1953

Left thumb impression of Cosses Fernandez Bai.
Petitioner.

[Same as p 12 ref (T)] 29 4

Revenue Department.

Memorandum No.12516-F/53/4, dated 14th July 1953.

ASSIGNMENT - Land - South Kanara - Karkal Taluk - Kukkedi village - S.No.50/2 - Assignment to Sri.Dharmanna Pandi - Cancellation - Request - Negatived.

From Mrs.Cosses Fernandez, petition dated 2-2-1953.
From the Board of Revenue, Ref.B.2026/53-2, dated 13-6-1953.

The Government see no grounds to interfere on behalf of the petitioner. The petition is rejected.

(Sd) (C.R.Krishna Swamy Saheb.
Under Secretary to Government.

To,

Mrs.Cosses Fernandez, W/o Sri.Gustin Rodrigues, Kukkedi village Karkal Taluk, South Kanara District.

Copy to the Board of Revenue (L.R) (with enclosures as per list returned.)

Copy to the Collector of South Kanara.

Forwarded/By order.

(Sd) x x x x
16-7-53.
Superintendent.

(TRUE COPY)

Same as pp 2-10 of (I) J

BEFORE HIS EXCELLENCY THE GOVERNOR OF MADRAS.

Mrs. Cosses Fernandez, wife of Mr. Gistin Rodrigues, residing in Kukkedi village, Karkal Taluk, South Kanara District. } PETITIONER.

MAY IT PLEASE YOUR EXCELLENCY,

I, Mrs. Cossess Fernandez, the petitioner herein, pray that I may be permitted to bring the following facts by way of appeal to Your Excellency's kind notice for Your Excellency's favourable consideration and for the necessary reliefs:-

1. The petitioner is a very poor woman of Kukkedi village. She was a chalgeni tenant under one Nemanna Ajiri, the predecessor-in-title of one Darmanna Pande, a rish landlord and pattada of Kukkedi village. This petitioner prays that she may be permitted for the purpose of this appeal to refer to the aforesa Darmanna Pande, as the respondent.

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was effecting all these improvements.

3. The petitioner's then landlord, the aforesaid Nemanna Ajiri, was a conscientious and God fearing man and was held in high esteem. Nemanna Ajiri, however, died in 1947 and thereafter the Respondent has succeeded him.

4. The respondent is a greedy man and is out to reap where he has not sown and to appropriate by hook or by crook, the fruits of someone else's labour. From the very outset, after he took over, the respondent has deliberately entertained enemity towards the petitioner and this solely with the idea of depriving the petitioner of the aforesaid plot of land.

5. The respondent filed a civil suit against the petitioner and got her evicted from the chalgeni plot to which the present plot of land is Dharkast. The next step he foisted was a case against her which owing to the Grace of God, was thrown out as false. He has used his power and pelf to deprive the petitioner of the fruits of the labour in the aforementioned Dharkast and to harass her in numerous ways.

6. In this connection the petitioner begs to submit that she has, ever since 1943, been paying the assessment in respect of the Dharkast in question.

7. In view of the improvements effected by the petitioner in the aforesaid plot the petitioner applied for the assignment of the plot in D.R.No.67/58 which was

strenously opposed by the Respondent. In his statement dated 8-2-1948 before the Shanbhogue, the respondent admitted that the petitioner had effected improvements in the plot but that she had no right to them because it was kumki to his Kadim land S.No.22/2. The Tahsildar ignored the valuable improvements effected by the petitioner and assigned the plot to the respondent. Thereafter the petitioner preferred an appeal against the order of the Tahsildar and the Revenue Divisional Officer, Coondapoor. The Revenue Divisional Officer, Coondapoor confirmed the order of the Tahsildar. The order of the Revenue Divisional Officer, Coondapoor was inequitable and unjust in view of the fact that the petitioner had admittedly effected the improvements on the plot and the relative status of the petitioner and the respondent.

8. As against the order of the Revenue Divisional Officer Coondapoor, the petitioner preferred an appeal to the Collector ıth Kanara. In her appeal to the Collector of South Kanara, the petitioner stated inter alia that the land had been assigned to her that if the original landlord Nemanna Ajiri, wanted any kumki right to this plot he would certainly have asserted his claim at the time of the original grant under the Grow More Food Scheme in 1943, or subsequently before the time of his death, that the successor in interest of Nemanna Ajiri was estopped from asserting his right to the plot, that kumki privileges are not absolute but that they are at the discretion of the Government that the observation of the Revenue Divisional Officer, Coondapoor, that the consent of Nemanna Ajiri covered only the grant of the land on temporary lease is not correct and that unless the

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petitioner had been made to believe that the land would be hers and she would never have expended all her resources and run into debts in order to improve the land in question.

9. The Collector of South Kanara was pleased to allow the appeal of the petitioner in D.Dis.No.16315/50 dated 31-10-1950 after setting aside the order of the Revenue Divisional Officer, Coondapoor. The Collector's order has exhaustively dealt with the matter and the reasoning adopted is equitable, just and based on the equities of the case.

10. As against the order of the Collector, the respondent filed an appeal before the Board of Revenue, Madras. The Board called for her statement and on 1-9-1952 this petitioner submitted her statement to the Board. Being too poor to engage the services of a Counsel, to represent her case, before the Board of Revenue, Madras, the petitioner remained unrepresented the respondent, on the other hand, had a Counsel to appear for him.

11. The Board of Revenue, set aside the order of the Collector of South Kanara in B.P.Rt.3012. The petitioner received an order dated 1-5-1952 asking her to refer to the Collector of South Kanara. Thereafter the petitioner received an order from the Collector of South Kanara D.Dis.2479/51 dated 12-5-1952 asking her to refer to the Tahsildar of Karkal for orders. She then received a notice from the Tashildar Karkal, that the land had been assigned by the Board of to Darmanna Pande.

12. Not knowing on what grounds the Board of Revenue had set aside the order of the Collector of South Kanara

and allowed the appeal preferred by Darmanna Pande, the petitioner applied to the Board for a copy of the Board's orders. She received a reply from the Board asking her to apply to the Collector of South Kanara for a copy.

13. The petitioner filed a copy application before the Collector of South Kanara for a copy of the Board's orders as directed. She received a reply from the Collector's office to apply to the Board for a copy.

14. A further copy application was preferred before the Board of Revenue for a copy of the Board's orders. Once again she received an order from the Board to apply to the Collector of South Kanara.

15. It is thus highly inequitable and unjust that the petitioner should be made to dance from pillar to post just to get a copy of the Board's orders in B.P.Rt.3012. without being given a copy of the same.

16. The petitioner was directed by the Board to file an appeal if she chose before the Government. But without a copy of the Board's orders set aside the order of the Collector of South Kanara, the petitioner felt helpless.

17. The petitioner fails to understand why the Board of Revenue, Madras, has not given her a copy of the Board's order in B.P.R'

18. The petitioner feels that she has no other resort but to approach Your Excellency for the necessary reliefs and feels certain that justice will not be denied to her at Your Excellency's hands.

19. The petitioner prays that Your Excellency may be

pleased to call for the records pertaining to her case and pass orders in her favour restoring the land to her and confirming the orders of the Collector of South Kanara in D.Dis.No.16315/50 dated 31-10-1950.

20. In this connection this petitioner humbly prays to draw Your Excellency's attention to paragraph 5 of G.O.999 Revenue Department dated 28-4-1946 which directs that poor persons like the petitioner should be permitted to continue occupation of the land granted to them under the Grow More Fo Scheme by the assignment of the said land to them. The said G.O. applies to the petitioner with greater force as she owns no other property and she has improved the land at the expense of much labour and cost.

21. The petitioner submits that she has been in continuous possession of the land for the past nine years and both in justice and in equity she cannot be ejected from the land for the sake of a wealthy landlord.

22. The petitioner also prays to draw Your Excellency's attention to the fact that the respondent is a rich and wealthy landlord owning vast tracts of land which are not attended to. This petitioner has brought a piece of land which was assigned to her and which was barren when it came into her possession, under cultivation and has converted it into a flourishing garden Just prior to the monseen of 1952, this petitioner has further developed the land by constructing fresh rice fields. During these days of food scarcity, it will not be correct to interfere with the labour of the respondent and prevent her from raising food crops. It is obvious that the respondent wants to deprive the petitioner of the fruits of her labour and snatch

away the outcome of another persons honest and hard labour.

23. In these circumstances set forth above, the petitioner humbly begs to submit that there is absolutely no mistake of fact in the matter of the assignment in her favour and that there are no grounds justifying the setting aside by the Board of Revenue, Madras, of the order of the Collector of South Kanara.

The petitioner prays that Your Excellency may be pleased after going through the records of her case to confirm the order of the Collector of South Kanara in D.Dis.No.16315/50 forwhich act of justice and kindness the petitioner will ever remain grateful to Your Excellency.

KEKKUDI VILLAGE,
2nd February 1953.

PETITIONER.

39

Previous reg 14/X/53.

Rev Dept

M Memo No 826 H 5 F/53-1 dated 14-10-53

Assignment - Land - (South Kanara) Karkal taluk - Kukkedi village - S.No. 50/2 - Assignment to Sri Dharmanna Pande - Cancellation - Request of Mrs Rocas Fernandes - Negatived - Revision petition - Rejected

P 12 of (F) Govt Memo No 12.5.16 F/53-1 Rev dt. 14-7-53.

PP 1-8 of From Mrs Rocas Fernandes petition dated 26-9-53

The Govt see no reason to reconsider the orders already passed in

Orders in Govt at P 211 F.

P 12 of (F) Govt. Memo No 12.5.16 F/53-1 Rev dated 14-7-53

the petition is rejected.

To SW 29/10/53

Mrs Rocas Fernandes
C/o Sri Agustin Rodrigues
Kukkedi village
Karkal Taluk
South Kanara dt

reg 14/X/53. 0 14/X/53

RA 14/10/53.

CM 826 H-5 F/53

ORDER PAPER.

20,002—8-5-53.

Revenue **Department.**

Subject. Assignment - Land - (South Kanara) - Karkal taluk - Kukkadi village - S.no 50/2 - Assignment to Sri Dharmanna Pandi - Cancellation - request of Mrs Forest Forwarder - negatived - Revision petition

Recommendations of Circulating Officer. The petition may be rejected

Macfie
12 X 53

Orders of Ministers.

(1) D(L.R.) M. A. Muthaliah
13. X. 53.

(2)

(3)

(4)

(5)

(6)

(7)

(8)

(9)

(10

If orders passed in the Cabinet, Decision of Cabinet:

(C.No. 12516F/53

Revenue Department

Assignment - Land - (South Kanara) - Karkal taluk - Kukkedi village - S.No.50/2 - Assignment to Sri Dharmanna Pandi - Cancellation - Petition.

pp2-10 cf
p10 cf
p11 cf

From Mrs. Cocess Fernandes, petn.d/2.2.1953.
Govt.Endt.No.12516-F/53-1,Rev.d/17.2.1953.
From the Bd. of Rev.,Ref.B.2026/53-2,d/13.6.53.

To U.S.

Please see the petition from Mrs.Cocess Fernandes at pp.1-10 c.f., the Endt. at p.10 c.f., and the Board's report at p.11 c.f.

2. The facts of the case are as follows:

Para 2 at p2-1 cf (W)

S.No.50/2 of Kukkedi village, Karkal taluk, South Kanara district measuring 1.40 acres, is an assessed waste land which forms kumki to S.No.22/2 belonging to Sri Dharmanna Pandi. The petitioner was a chalgeni tenant under the Kadim holder of S.No.22/2. In the case of tenants under chalgeni system, leases are renewed every year. The plot was granted on lease under the G.M.F. scheme to the petitior in Karkal Tahsildar's D.Dis.2318/43, dated 29.7.1943 with the consent of the kumkidar. The petitioner is said to have spent over Rs.400/- on improvement of the plot. The plot wa assigned to Sri Dharmanna Pandy on kumki rights by the Dy. Tahsildar, Karkal in his D.R.67/58 dated 19.6.1949. The R.D.O. confirmed the order of assignment. On revision, the Collector cancelled the assignment and ordered that the land should be assigned in the name of the petitioner in his D.Dis.1636/50, dated 31.10.1950.

pp2-3 cf (V)
p p2-2-2 cf (W)
pp2-7-2 cf (M)

The main reason that weighed with the Collector for cancelling the assignment made in favour of Sri Dharmanna Pa was that the occupation of the land by the petitioner subsequent to the expiry of the G.M.F. lease was an authorised one and so long as it was not objected to by the kumkidar within the statutory period of six months, the occupation amounted to adverse possession, that the petitioner continued to be the chalgeni tenant in S.No.22/2 till 31.3.1946 and that Sri Dharmanna Pandi did not also put in any objection

Para 4 on p2-8 cf (M)

the occupation of the plot within
for the statutory period of six months even after the expiry of the lease period on 31.3.1946.

3. Against the orders of the Collector assigning the plot in favour of the petitioner, Sri Dharmanna Pandi appealed to the Board of Revenue. The Board has examined the case with the connected records and has observed as follows:-

"The petitioner was a chalgeni tenant under the petitioner's predecessor in title as well as under the petitioner till 31.3.1948. She was granted the land on temporary lease under the G.M.F. Scheme in 1943 on the consent given by the Kumkidar. She continued to be in occupation of the plot even after the expiry of the lease period and effected some improvements on the plot. These improvements would not have been effected by her without the knowledge of the Kumkidar as she was a mere chalgeni tenant under him. A Chalgeni tenant would usually be permitted to squat upon the kumki land along with the private lands of the landlord so long as he or she continued to be the tenant, that such permission or occupation cannot be ~~continued~~ construed as adverse possession to warrant the forfeiture of kumki rights within the meaning of B.S.O.15(40)"

It has also observed that the lease period expired only on 31.3.1948 and that the kumkidar objected to the assignment in favour of the petitioner on 8.2.1948, i.e. before the expiry of the lease period. Sri Dharmanna Pandi cannot therefore be considered as having lost his kumki rights over the plot by the adverse possession. For these reasons, the Board has set aside the Collector's order and confirmed the order of the Deputy Tahsildar assigning the land in favour of Sri Dharmanna Pandi.

4. The petitioner has appealed to the Government against the orders of the Board, assigning the land in favour of Sri Dharmanna Pandi. ~~No second applies to the Govt's in assignment cases.~~ Further, the petition does not

pp 27-28 of (M)
pp 1-10 of (A)
para 3 at pp 71-72 of (A)
para 2 at p21 of (W)
para 3 at pp 71-72 of (A)
vide the extracts at (T)
para 4 at p12 of (A)
pp 70-72 of (A)
pp 2-10 of
pp 70-72 of (A)

contain any fresh grounds other than those urged before the Board. The Board has no remarks to offer. As regards the contentions in paragraphs 14 and 15 of the petition, the Bd. has stated that the petitioner was furnished with a copy of B.P.No.3102, dated 1.5.1952.

5. The Kumki privilege is a valued privilege in the South Kanara district and the existence of kumki lands as an appurtenance to the holdings of the kadim landholders has been considered in the past to be essential for cultivation, particularly from the point of view of providing green manure leaves. The kumakidars have a pre-emptive right to assignment when the land is proposed to be assigned. Any curtailment of this privilege might have repurcussions on the efficiency of agriculturein this district. Subject to the above all orders regarding assignment of land would be generally applicable to this district also.

As observed by the Board in paragraph 3 above, Sri Dharmanna Pandi was entitled to the assignment of S.No.50/2 which is kumaki to his kadim land in S.No.22/2. The petitioner has no claim to the land; In the circumstances stated, there is no case for interference on behalf of the petitioner. For orders whether the petition may be rejected.

25/6/53

A copy of B.S.O 15 (H.O) since obtained from the Board is put up at flag (F)

8/7/53

The pets main contentions are
(1) Rule No. 999 d. 28/4/48 protects her
(2) that the Respt had lost his kumaki by adverse possession.

Rule 999 d 28/4/48 prohibits the eviction of very poor, S.C. class in favour of political sufferers. It cannot be held to prescribe a rule of preference in the choice of assignees in the S. Kanara dt, where [illegible] is a highly valued and necessary

12516

privilege

(2) As regards adverse possession, the reference is to A on p. 3 of (T). It would appear that to extinguish kumaki rights, ~~possession~~ the possession of the SJ dar should be.

(1) with the knowledge of the kumakidar

(2) without his consent

~~The~~ and should have extended for period of six months without objection

In the present case, the peti possession was evidently with the knowledge of the Respd. The previous kumakidar and his representatives obviously consented to the peti's possession for she was their chalgeni tenant and it is stated that it is usual for chalgeni tenants to cultivate the kumaki lands of the kumakidar. The pets. ~~pet~~ became the ~~regular~~ kumakidar subsequent to 14.9.1947 and it is admitted by the Collector at S on p. 2b of (A) that he objected to the peti assignment of the land in favour of the peti in Feb 1948, ~~viz~~ within six months. Further the lease expired on 31-3-48 and he had then objected to the assignment even prior to the expiry of the chalgeni lease.

para 2 at p 21 of (W)

glad

para 3 at p 71 N.F (A)

✓ Pl see p 39 of (A) the lease of the previous kumakidar the date is stated 14 9 47

para 3 at pp 71-72 N.F (A)

Thus both the contentions of the peti. are untenable It is true that she has spent some money on the land the Respt was prepared to pay her the cost of the well p 67 of (A) The Respd. says that the peti has been assigned 4 cents of land in RS 50 under lease-cum-sale rules. Pl see A on pp 7-9 of (A) This is probable in view of the RDO's orders at S on p 65 of (V).

The peti. may be rejected

10/7/53

M. A. Manickavasagam

12.7.53 (L.R.)

10.7.53

Reddy

Reddy 11/7

11/7

RECEIVED 13 JUL 1953 REVENUE DEPARTMENT

DEPUTY SECRETARY TO GOVERNMENT 13 JUL 1953 REVENUE DEPARTMENT

To M.S

with reference to the orders in circulation at the bottom of the previous page, a draft memo is submitted for approval

MP 14/7/53. D 14/7/53

RM 14/7/53

Cro & 26 H 5 F/53 — Rev Dept

Assignment - Land - (South Kanara) Karkal taluk - Kukkedi village S.no 50/2 - Assignment to Sri Dharmanna Pandi - Cancellation Request of Mrs Rosers Fernandes negatived - Revision petition. from Mrs Rosers Fernandes petition dated 26-9-53 — pp 1-8 c/f

To R.S

Please see the petition from Mrs Rosers Fernandes at pp 1-8 c/f.

2. The petition is a memorials to the governor against the orders in Mr no 12 516 F/53-1 Rev dated 14-7-53. He has requested that the orders in the memo referred to above, may be reconsidered and that she may be assigned S.no 50/2 of Kukkedi village Karkal taluk, South Kanara district, — p 12 c/f (T) — 2nd para at pp 7 c/f

3. The above land measures 1.14.0 acres and is classified in the accounts as "assessed waste" which forms kumki to S.no 23/2, belonging to one Sri Dharmanna Pandi. The request of the petitioner was examine in detail in the notes at pp 1-5 c/f of the memo at (T) and in the circumstance stated therein, the govt refused to interfere with the orders of the Bd of Rs and accordingly rejected her petition. — 'S' at p 1 c/f (T) & p 12 c/f (T)

It is submitted that para 1-22 of the revision petition are the same as paras 1-22 of the petitioner's previous petition dated 2-12-53. Para 23 in the revision petition is an addition — pp 1-8 c/f — pp 1-10 c/f (T) & p 7 c/f

8645 F/53

on para 23, the petitioner refers to the assignment of an extent of 0.5 cents in S.no 101/3 of Kukkedi village to Haridevi, the predecessor-in-title of Sri Dharmanna Pandit. She says that this land is outside the limits of S.no 50/2. Her remarks are not intelligible. Presumably, what she means is that in 1915, S.no 101/3 had already been assigned as kumki land to S.no 22/2. Therefore S.no 50/2 cannot also be kumki land to S.no 101/3. 22/2 It is also seen from the Revenue Inspector's report at P 21 & F that S.no 22/2 has other kumki lands in S.nos 88/1, 50/1 and 98/1. Therefore it is for orders whether a report may be called for from the writer on this point.

I am afraid Rk

A.

Q
10/X/53. 10/X/53

Q
Para 23 of the peti. seems to be irrelevant. That S.No 50/2 is Kumaki & S.No 22/2 is unquestionable. As per the rule in (B) there are no grounds to interfere with the order in (B) passed on 14/7/53. The peti. may be rejected.

D.S

12/10/53

May be rejected

12X53

DS. NIL

DEPUTY SECRETARY TO GOVERNMENT
13-OCT-1953
REVENUE DEPARTMENT

13/10

A draft memo

13-X-53 D(LR)

M CW

SECRETARY TO GOVERNMENT
13-OCT-1953
REVENUE DEPARTMENT

13/X/53

DS

A draft memo is submitted for approval. If issued, the papers may be stitched with a memo at (T).

Q
1/X/53 14/10/53

RK 14/10/53